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February 7, 2018

VIA ELECTRONIC FILING

The Honorable Jocelyn G. Boyd
Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, South Carolina 29210

Re: Joint Application and Petition of South Carolina Electric & Gas Company and Dominion Energy, Incorporated for Review and Approval of a Proposed Business Combination between SCANA Corporation and Dominion Energy, Incorporated, as May Be Required, and for a Prudency Determination Regarding the Abandonment of the V.C. Summer Units 2 & 3 Project and Associated Customer Benefits and Cost Recovery Plans
Docket No. 2017-370-E

Dear Ms. Boyd:

Enclosed for filing on behalf of South Carolina Electric & Gas Company and Dominion Energy, Inc. is a Petition for Review, Reconsideration and Rehearing of Order No. 2018-80 in the above-captioned matter.

By copy of this letter, we are serving a copy of the Petition on the parties of record and enclose a certificate of service to that effect.

If you have any questions, please advise.

Very truly yours,

Matthew W. Gissendanner

MWG/kms
Enclosure

The Honorable Jocelyn G. Boyd

February 7, 2018

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cc: Jeffrey M. Nelson, Esquire
Jenny R. Pittman, Esquire
Alexander G. Shissias, Esquire
Robert Guild, Esquire
Shannon Bowyer Hudson, Esquire
Frank Knapp, Jr.
(all via electronic and U.S. First Class Mail w/enclosures)

William T. Dowdey
(via U.S. First Class Mail w/enclosures)

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA
DOCKET NO. 2017-370-E

In Re: Joint Application and Petition of
South Carolina Electric & Gas Company and
Dominion Energy, Inc., for review and
approval of a proposed business combination
between SCANA Corporation and Dominion
Energy, Inc., as may be required, and for a
prudency determination regarding the
abandonment of the V.C. Summer Units 2 &
3 Project and associated customer benefits
and cost recovery plan.

PETITION OF
SOUTH CAROLINA ELECTRIC &
GAS COMPANY
AND DOMINION ENERGY, INC.
FOR REVIEW, RECONSIDERATION,
AND REHEARING OF
ORDER NO. 2018-80

South Carolina Electric & Gas Company ("SCE&G" or the "Company") and Dominion Energy, Inc. ("Dominion Energy") (together, "Petitioners" or the "Parties") hereby apply to and respectfully petition the Public Service Commission of South Carolina (the "Commission") for review, reconsideration, and rehearing of Order No. 2018-80, which was entered into the record of this docket on January 31, 2018. In support of this petition, the Parties show the following:

1. This petition for review, reconsideration, and rehearing (this "Petition") is filed under the terms of S.C. Code Ann. §§ 58-27-2150 and 58-27-2310 and in conformity with 10 S.C. Code Ann. Regs §§ 103-825(A)(4) and 103-854.
2. This docket concerns an application and petition filed jointly by Petitioners on January 12, 2018 (the "Joint Petition").
3. The Joint Petition seeks approval of a proposed merger between SCE&G's parent company, SCANA Corporation, and Dominion Energy. It also seeks approval of a regulatory plan

to resolve issues related to SCE&G's investment in the new nuclear development project (the "NND Project"), which was cancelled on July 31, 2017.

4. This Petition seeks review, reconsideration, and rehearing of Order No. 2018-80.

5. That order denied Petitioners' joint motion to expedite the hearing in this matter. It ordered the hearing officer to establish a procedural schedule that places the hearing and issuance of the final order more than six months after the filing of the Petition, which is in contravention of the law.

6. Prompt action on the Joint Petition is critical to SCE&G's customers and the economic welfare of the areas it serves. So long as the matters raised in the Joint Petition remain unresolved, the Company's ability to access capital on reasonable terms is uncertain. On February 5, 2018, citing the South Carolina House of Representatives' recent overwhelming passage of H. 4375, Moody's Investors Service took negative credit action against both SCE&G and its parent SCANA Corporation ("SCANA") and informed SCANA that "[t]o the extent that there is evidence of additional financial stress or adverse political or regulatory developments, ratings could be affected further." As such, SCE&G's ability to provide safe, reliable, and efficient utility service to electric and natural gas customers is placed at risk. Delay also postpones SCE&G customers' receipt of the benefits that will result from the Dominion merger, including an immediate rate credit totaling \$1.3 billion in the aggregate.

7. In light of the merger's benefits and the need for resolution of the issues related to the NND Project, Petitioners respectfully request that the Commission reconsider Order No. 2018-80 and establish a procedural schedule that results in an order being issued in this docket no later than July 12, 2018, as required by law.

8. Additionally, as the Commission has previously recognized, the Joint Petition seeks relief pursuant to S.C. Code Ann. §§ 58-27-870(F), 58-33-270(E), and 58-33-280(K) (2015).

9. Proceedings raising claims under any of those three statutes are subject to a six-month statutory deadline for the issuance of an order by the Commission as provided by S.C. Code Ann. §§ 58-27-870(B) and 58-33-270(F). **If the statutory deadline is not met, the relief requested can be deemed granted, even in the absence of Commission action.**

10. Order No. 2018-80 states the following as its legal justification for declining to acknowledge the six-month statutory deadline:

The Petition made reference to S.C. Code Annotated Section ~~58-27-870(F)~~, a portion of the rate case section. That section describes circumstances under which the Commission may rule without notice and hearing. The language at the beginning of the Section states that "Notwithstanding the provisions of Section 58-27-860 and 58-27-870..." I believe this provision means that the six-month limitation found in Section 58-27-870(B) is not applicable.

11. SCE&G would respectfully suggest that this ruling is in error.

12. S.C. Code Ann. § 58-27-870(F) creates a distinction between applications filed under its terms, and general rate cases filed under the other provisions of S.C. Code Ann. § 58-27-870.

13. In general rate cases, all aspects of a utility's operations and finances are subject to review, and the "Commission's determination of the fair rate of ~~return~~ must be documented fully in its findings of fact" S.C. Code Ann. § 58-27-870(G). That is not the case under S.C. Code Ann. § 58-27-870(F) where the utility requests only limited changes in rate schedules or tariff provisions.

14. The statutory language referenced in Order No. 2018-80 states that "[n]otwithstanding the provisions of Sections 58-27-860 and 58-27-870, the commission may

allow rates or tariffs to be put in effect without notice and hearing . . .” when the utility requests limited changes in rate schedules or tariffs that “do not require a determination of the entire rate structure and overall rate of return . . .” S.C. Code Ann. § 58-27-870(F).

15. The “notwithstanding” clause of S.C. Code Ann. § 58-27-870(F) is limited by what follows it in the rest of the statute: Notwithstanding *the provisions of Sections 58-27-860 and 58-27-870 which establish specific notice and hearing to be provided in a general rate case*, the Commission may order changes in rate schedules and tariffs without such notice and hearing when *rate reductions*, experimental rates, or other limited changes in rates and tariffs are requested by the utility.

16. The “notwithstanding” clause of S.C. Code Ann. § 58-27-870(F) is intended to exempt proceedings where the utility proposes only limited changes in rates and tariffs from the more extensive notice and hearing provisions contained in the Section 58-27-860 and 58-27-870 that apply the general rate proceedings. It does not authorize the Commission to bypass any of the other procedural safeguards contained in S.C. Code Ann. §§ 58-27-860, 58-27-870, or 58-33-270, including the six-month statutory deadline for the Commission to rule on the proposed changes.

17. In fact, there are no terms in S.C. Code Ann. § 58-27-870(F) whatsoever providing for an exemption from the six-month statutory deadline.

18. Therefore, the words of the statute itself and their plain meaning do not support the construction of S.C. Code Ann. §§ 58-27-870(B) reflected in Order No. 2018-80. See *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000) (“Where the statute’s language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning.”).

19. Furthermore, it is an axiom of statutory construction that statutes should not be construed in a way that creates an illogical or absurd result. *See id.* at 91, 533 S.E.2d at 584 (explaining that courts must construe statutes in a way “to prevent an interpretation that would lead to a result that is plainly absurd”).

20. It would be illogical for S.C. Code Ann. § 58-27-870(F) to impose a six-month deadline on the Commission’s consideration of complex and broad ranging general rate proceedings, but yet allow the Commission to ignore such a deadline in simpler and more narrowly focused proceedings under S.C. Code Ann. § 58-27-870(F).

21. Furthermore, as a factual matter, the changes in rate schedules and tariff provisions requested in the Joint Petition under S.C. Code Ann. § 58-27-870(F) are only a limited aspect of the relief sought there.

22. The other relief sought in the Joint Petition includes (a) a prudency determination as to the decision to abandon the project under the terms of S.C. Code Ann. § 58-33-280(K); (b) the establishment of the amount of capital costs to be recovered in abandonment under the terms of S.C. Code Ann. §§ 58-33-270(E) and 58-33-280(K); (c) the establishment of the amortization schedules and regulatory accounts through which those capital costs would be recovered under the terms of S.C. Code Ann. § 58-33-280(K); (d) ordering of provisions for the recovery of the cost of capital on those amounts under the terms of S.C. Code Ann. § 58-33-280(K); and (e) other matters related to the accounting and rate treatment for the costs of the NND Project under the terms of S.C. Code Ann. §§ 58-33-270(E) and 58-33-280(K).

23. None of these matters involve “rates and tariffs to be put into effect” under the terms of S.C. Code Ann. § 58-27-870(F). The rate and tariff aspects of the Joint Petition include

only the 5% rate reduction or the 3.5% rate reduction that is proposed in certain circumstances, and the rate and tariff changes necessary to implement those reductions.

24. None of the other matters arise under S.C. Code Ann. § 58-27-870(F) or are subject to its terms.

25. Therefore, even assuming that the ruling set forth in Order No. 2018-80 is correct, the matters listed above would still be subject to the six-month deadline contained in S.C. Code Ann. § 58-33-270(F). These requirements are in no way implicated by any matters arising under S.C. Code Ann. § 58-27-870(F).

26. Nowhere in Order No. 2018-80 does the Commission recognize or address the six-month deadline contained in S.C. Code Ann. § 58-33-270(F); this error alone requires that the Commission grant this Petition for Review, Rehearing, and Reconsideration of Order No. 2018-80.

27. In consideration of the important regulatory and other public policy matters at issue here the Commission should not allow the statutory deadlines under S.C. Code Ann. §§ 58-27-870(B) and 58-33-270(F) to be violated.

28. To avoid this situation, the Commission should review, reconsider, and grant rehearing as to Order No. 2018-80, and thereafter issue an order establishing a hearing schedule that results in issuance of an order on the merits of this matter within the six-month statutory deadline.

REQUEST FOR RELIEF

WHEREFORE, SCE&G and Dominion Energy respectfully request that the Commission:

- a. Grant review, reconsideration, and rehearing of Order No. 2018-80;
- b. Grant an expedited hearing in this docket;

c. Issue an order establishing a hearing schedule that results in an order on the merits of the Joint Petition being entered within the six-month statutory deadline; and

d. Grant the other relief requested above and such other, different, or further relief as may be warranted in the premises.

Respectfully submitted,



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Date: February 7, 2018



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**Application for admission pro hac vice forthcoming*

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Date: February 7, 2018

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2017-370-E

IN RE:

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determination regarding the abandonment of the)
V.C. Summer Units 2 & 3 Project and associated)
customer benefits and cost recovery plans)
_____)

**CERTIFICATE OF
SERVICE**

This is to certify that I caused to be served on February 7, 2018, one (1) copy of the **Petition of South Carolina Electric & Gas Company and Dominion Energy, Inc. For Review, Reconsideration, and Rehearing of Order No. 2018-80** to the persons named below at the addresses set forth and in the manner described:

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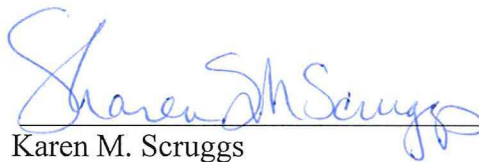
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